



Marsha J. MacBride

Executive Vice President • Legal & Regulatory Affairs
1771 N Street, NW • Washington, DC 20036-2800
(202) 429-5454 • Fax: (202) 775-3526
mmacbride@nab.org

September 29, 2005

Ex Parte Communication

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: MM Docket No. 00-167

Dear Ms. Dortch:

On September 26, Walt Disney Company, Viacom, Inc., NBC Universal Inc. and NBC Telemundo License Co. ("networks") formally requested the Commission to extend the effective date of the new rules governing children's television.¹ The rules are currently set to take effect on January 1, 2006.² The National Association of Broadcasters ("NAB") agrees with the networks that there is good cause for the Commission to defer the effective date of the rules until the Commission concludes the reconsideration process. Accordingly, we urge the Commission to grant their motion.

As detailed in our *Petition For Reconsideration*,³ the new rules are likely to reduce broadcasters' flexibility to develop innovative programming and services in a digital environment. NAB is concerned that the current restrictions on station promotions, the display of Internet website addresses and preemption practices may well yield the

¹ In the Matter of Children's Television Obligations of Digital Television Broadcasters, *Motion For Extension Of Effective Date Or, In the Alternative, Administrative Stay*, filed on Sept. 26, 2005.

² In the Matter of Children's Television Obligations of Digital Television Broadcasters, *Report and Order and Further Notice of Proposed Rulemaking*, MM Docket No. 00-167 (rel. Nov. 23, 2004).

³ In the Matter of Children's Television Obligations of Digital Television Broadcasters, *NAB Petition for Reconsideration and Request for Clarification*, filed on Feb. 2, 2005.

unintended consequence of harming broadcasters' ability to promote and financially sustain quality children's television, including maintaining the traditional Saturday morning block of television.

NAB urges the Commission to preserve the *status quo*, whereby the pre-2004 rules governing children's television remain fully in force, until such time as the agency resolves the issues raised in the numerous Petitions for Reconsideration. As detailed in the network's motion, the Commission routinely finds that the public interest warrants a temporary extension of newly adopted rules to enable the Commission to address pending petitions for reconsideration.⁴

Further, clarification from the Commission before rule-implementation may eliminate regulatory uncertainty that could result in a *de facto* ban on certain types of content. For example, as a precaution broadcasters have already begun to strip out URL addresses aired during children's programming, including movie credits, commercials, interstitials, etc., at a significant cost to stations. A delay of the effective date will also allow the Commission to fully reconsider its new 10% preemption limit, as it will unduly harm West Coast broadcasters that air live sports events.

Broadcasters remain committed to providing quality children's educational and informational programming in the digital era, and we are hopeful that the Commission will act expeditiously to bring certainty to this matter.

Please direct any questions concerning this matter to the undersigned.

Respectfully submitted,

A handwritten signature in black ink, reading "Marsha J. MacBride". The signature is written in a cursive, flowing style.

Marsha J. MacBride

⁴ See, e.g., *Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, Order, CG Docket No. 02-278, FCC 05-132 at ¶ 9 (June 27, 2005) ("In light of the on-going developments in Congress and pending resolution of the petitions for reconsideration and clarification of the Commission's facsimile advertising rules, we believe the public interest would best be served by delaying the effective date of the written consent requirement and the 18-month and three-month limitations on the duration of the established business relationship as applied to the sending of facsimile advertisements until January 9, 2006. *This delay will provide the Commission requisite time to address the petitions for reconsideration filed on these issues.*") (footnote omitted) (emphasis added)).